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Paper No.

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OFFICE OF PETITIONS

In re Application of :
Jeffery Bonadio, et al. :
Application No. 09/592,685 :
Filed: June 12, 2000 :
Attorney Docket No. 4100.000582 :

ON PETITION

This is in response to the "Petition Under 37 CFR 1.47(b), filed January 2, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(b) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee;
- (4) a statement of the last known address of the non-signing inventor.

(5) proof of proprietary interest: and

(6) proof of irreparable damage.

Applicant lacks item (2) set forth above.

The oath or declaration filed with the instant petition does not contain the citizenship of Wushan Yin and consequently, is considered defective. In view thereof, petitioner must submit an acceptable oath or declaration. Furthermore, the oath or declaration is not signed by the assignee. MPEP 409.03(b) states in pertinent part:

“The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof, should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U. S. Patent and Trademark Office, to sign the application oath or declaration on its behalf.”

Accordingly, the oath or declaration must be signed by the assignee.

It is also noted that this application was incomplete upon its filing in that a newly executed oath or declaration must be filed in any continuation-in-part. See 37 CFR 1.63(e). The application was filed with a copy of the oath or declaration filed in the parent application. Therefore, the Office considers the application to have been filed without an oath or declaration. Any oath or declaration submitted subsequent to the filing of the application is considered late. Therefore, a late oath or declaration surcharge of \$130 is required.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

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The centralized facsimile number is **(703) 872-9306**.

Telephone inquiries should be directed to the undersigned at (703) 306-3475.

A handwritten signature in cursive script, reading "Marianne E. Morgan". The signature is written in dark ink and is positioned above the printed name and title.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy